

S P E E C H

Andrew Chalmer Writer in **Edinburgh,**

Upon the Commencement of his Trial before the
Baillies thereof, at the Suit of their Procurator-
fiscal, for writing and publishing, "An Historical
Account of the City's Duty on Ale, and the
past Management thereof."

Edinburgh, April 8. 1752.

AFTER reading over the Complaint, which charges
him, *inter alia*, with having represented the Admi-
nistration of those very Persons who sat to judge
him as destructive of the Publick Interest of the City,
Burgesses and Community; Mr. Chalmer being asked, in the
common Form, What he had to say to the Complaint?

He spake as follows:

IF I thought that Mr. Procurator-fiscal had commenced
this Prosecution *ex officio*, without Command or Com-
pulsion, I would have made my Acknowledgments to him;
but as I am sensible that I owe the Favour to Commands
laid upon him by you, Gentlemen, as Part of the Magi-
stracy of this City: My Thanks are due to you, and to you
I pay them, for having given me now at length an Oppor-
tunity

tunity, before such an Auditory, to assert and vindicate, as far as it is possible to do on the first Diet of such a Cause, my Character, in Opposition to the vile Aspersions thrown out against me for a Course of Ten Weeks past, in the most unjust and injurious Manner, and by the lowest and basest, as well as the most unjustifiable and illegal, Practices. — Not only have I been defamed amongst my Fellow-citizens, and to those with whom I have near Connections, and frequent Occasions of Intercourse; but Attempts have been made to pre-occupy the Minds of the Judges, both here and in the last Resort, against me. — These Attempts will, I am sure, operate against the Attempters; and they never did, never can, give me any Uneasiness whatever: But I own it has given me some, to find that Numbers of other Persons, well-meaning and well-disposed in the Main, should have suffered themselves to be so far misled by the Ill-designing and Interested, as to condemn any Man for a Performance they never once perused, or upon hearing an other read over, which durst not show its Face to the Man who could have detected its gross Falshood and Fallacies, till he was put under a legal Restraint against taking any publick Notice of it; and the cool, deliberate Perusal of which, was refused to every one that would not be caught by the bare Reading. — I am persuaded, however, that there is not one of those misled, ill-guided Persons now present, but will depart from this Place, expressing his Detestation and Abhorrence of the Practices of these who have thus imposed on him.

As to the Question which you, Gentlemen, have put to me; When I am satisfied, that you have Right in this Manner, in these Formalities, and with these Attendants now about you, to ask me any Question touching the Subject of this Complaint, or when I am before a judicatory competent to my Trial upon it, I shall not hesitate a Moment on giving my Answer. — I shall then, in all Probability,

own

own That I was the Author of the *Historical Account*, &c., That I caused print it; That I did myself send Copies of it to every Person at *London*, or here, who I thought could assist in giving it the Effect I intended by it; and That I did give Orders for the Publication and Disposal here of the rest of the Impression.—I will then also re-assert and maintain the Truth of every material Assertion in Point of Fact in the *Historical Account*; and undertake a positive and direct Proof of my being warranted to make it, by the Books and other Authorities to which it refers.— And I will, at the same Time, justify the Publication upon the Principles of Liberty, essential to the Being of every Free Government;—Principles, of which every one, must see this Prosecution is a direct and open Infringement.

This, I say, I will act, when I am before competent and proper Judges.—But,

As I am sure, That you, Gentlemen, cannot, will not yourselves, pretend that you are quite disinterested in the Issue of the Trial to follow on this Complaint; That you cannot, before God and this Audience, say, that you have kept yourselves altogether free from Temptations and Inducements to a partial Byass for one Side of the Cause: I will take the Liberty to read to you the Sentiments of a late celebrated Writer, with regard to the Part which I apprehend it becomes you *now* to act—Treating of the Probity or Integrity of Officers of Justice; and having, by a Quotation from the Civil Law, asserted the Right of Parties to except against Judges, where there is Reason to suspect their being partial to one Side more than the other; he says, “ The most perfect Integrity that can be in Judges is no Hindrance, why Parties, who have Causes before them, may not challenge them, or except against them; and why they ought not to abstain from hearing Causes, in
“ which

" which they may have some Interest, or where there may
 " be some just Ground for suspecting them. And they
 " themselves are obliged to declare the Causes which may
 " render them suspected, if the Parties are ignorant of
 " them: For although a Judge may be above the Weak-
 " ness of suffering himself to be byassed or corrupted, and
 " may have Resolution enough to render Justice against his
 " own Relations; yet he ought to mistrust himself, and not
 " draw upon himself the just Reproach of a rash Proceed-
 " ing, which would in Effect be a real Misdemeanour."

I can scarce doubt, Gentlemen, but that you will take the Hint given you by this learned Civilian impartial to this Cause: I am sure it will be more for your Honour, more to the Satisfaction of your own Minds, to do so, than to follow any contrary Advice you have got, or may get, from Gentlemen whose lawful Business it is to attempt to byass your Judgments to that Side of the Question which they are fee'd to take. I hope you will, of your own Accord, abstain from hearing this Cause; since you must be conscious to yourselves, that there is just Reason for your so doing; and that you will mistrust your own Resolution of rendering Justice against yourselves, as you cannot otherwise miss to draw upon yourselves the just Reproach of a rash Proceeding, and may also commit a real Misdemeanour. In short, I hope you will decline yourselves from being Judges in this Cause; and not put me to the Necessity of formally declining you, which I cannot in Justice to myself forbear doing, if you shall propose to proceed.